

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56

HON. BRUCE R. GEERNAERT, JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

PLAINTIFF,

VS.

GERALD ARMSTRONG,

DEFENDANT.

NO. C 420 153

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, NOVEMBER 30, 1988

APPEARANCES:

FOR CHURCH OF SCIENTOLOGY
OF CALIFORNIA:

BOWLES & MOXON
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FOR MARY SUE HUBBARD:

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FOR MARY AND BENT CORYDON:

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ORIGINAL

MICHAEL W. PETTIT, CSR #2053
OFFICIAL REPORTER

1 LOS ANGELES, CALIFORNIA; WEDNESDAY, NOVEMBER 30, 1988 9:37 A.M.
2 DEPARTMENT NO. 56 HON. BRUCE R. GEERNAERT, JUDGE
3 (APPEARANCES AS HERETOFORE NOTED.)
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7 THE COURT: THE MATTER OF CHURCH OF SCIENTOLOGY
8 VERSUS GERALD ARMSTRONG, CASE NO. C 420 153.

9 MR. LIEBERMAN: ERIC LIEBERMAN FOR THE CHURCH OF
10 SCIENTOLOGY, YOUR HONOR.

11 MR. MOXON: KENDRICK MOXON FOR THE CHURCH OF
12 SCIENTOLOGY.

13 MS. PLEVIN: TOBY PLEVIN FOR MARY AND BENT CORYDON.

14 MR. MORANTZ: PAUL MORANTZ FOR BENT CORYDON.

15 THE COURT: ALL RIGHT. NOW, THIS IS A MOTION FOR
16 RECONSIDERATION OR CLARIFICATION OF THE COURT'S EARLIER
17 ORDER. THE DATE WAS --

18 MS. PLEVIN: NOVEMBER 9TH, I BELIEVE, YOUR HONOR.

19 THE COURT: AND THERE'S OPPOSITION TO THE MOTION, BUT
20 IT'S ON THE HEADING OF A DIFFERENT CASE.

21 MR. MORANTZ: I FILED A SUBSTITUTE PAGE. I BROUGHT A
22 SUBSTITUTE PAGE TO THE COURT'S CLERK TO REPLACE THAT BECAUSE
23 MY SECRETARY PUT THE WRONG CAPTION ON THAT.

24 THE COURT: IT IS APPROPRIATE THAT IT HAVE ANOTHER
25 PAGE.

26 NOW, I'VE READ ALL THE PAPERS, AND THERE'S AN
27 ISSUE RAISED HERE THAT WASN'T COVERED IN THE PRIOR ORDER,
28 AND THAT IS THE ATTORNEY-CLIENT PRIVILEGE WHICH HAS BEEN

1 LITIGATED WITH REGARD TO EXHIBIT 500-5 C'S, WHICH IS TWO
2 AUDIO TAPES. I GUESS THEY ARE AUDIO.

3 MR. LIEBERMAN: YES, YOUR HONOR, AUDIO TAPES.

4 THE COURT: AND I DIDN'T INTEND TO INFRINGE UPON
5 THAT, OBVIOUSLY. MAYBE IT'S NOT SO OBVIOUS, BUT THAT'S BEEN
6 THE SUBJECT OF A LOT OF LITIGATION, A LOT OF JUDICIAL
7 ATTENTION NOW PENDING BEFORE THE UNITED STATES SUPREME
8 COURT, SO I WANT TO MAKE IT CLEAR THAT MY ORDER IS NOT
9 INTENDED TO, AND I WILL CLARIFY IT, THAT IT DOES NOT INVOLVE
10 EXHIBIT 500-5 C'S. THE PRESENT ORDER RELATES TO DOCUMENTS
11 SEALED BY THE GENERAL ORDER AT THE TIME OF THE SETTLEMENT.

12 NOW, NO OTHER ORDER HAS BEEN IDENTIFIED. IN
13 THE MOVING PAPERS YOU TALK PRIMARILY ABOUT 5 C'S, AND THEN
14 ON PAGE 3, PARAGRAPH 4 YOU SAY, "THERE ARE FIVE OTHER
15 DOCUMENTS PRESENTLY RESTING IN THE COURT'S FILES WHICH ALSO
16 WERE NEVER ENTERED INTO EVIDENCE OR THE PUBLIC FILE IN THIS
17 CASE AND WHICH HAVE REMAINED SEALED THROUGHOUT THE HISTORY
18 OF THIS CASE. THESE DOCUMENTS ARE EXHIBITS 500" -- THERE'S
19 NO ARGUMENT ABOUT THOSE, NO EVIDENCE PRESENTED ABOUT THOSE,
20 AND THERE'S EVIDENTLY NEVER BEEN A SPECIFIC ORDER WITH
21 REGARD TO THEM.

22 MR. LIEBERMAN: LET ME TRY AND CLARIFY THAT, YOUR
23 HONOR. THOSE FIVE DOCUMENTS ALSO WERE THE SUBJECT OF THE
24 ORIGINAL SEALING ORDER IN THIS CASE WHEN THE DOCUMENTS WERE
25 DEPOSITED FOR SAFEKEEPING WITH THE CLERK OF THE COURT.
26 THEY, TOO, WERE NEVER ENTERED INTO EVIDENCE.

27 THE COURT: LET ME INTERRUPT YOU, BECAUSE WHETHER
28 SOMETHING'S ENTERED IN EVIDENCE OR NOT HAS NOTHING TO DO

1 WITH ANYTHING RELATING TO THIS MOTION. YOUR ARGUMENT ON
2 THAT IS JUST OFF ABOUT FIVE DEGREES. YOU CAN HAVE SOMETHING
3 IN EVIDENCE OR YOU CAN HAVE SOMETHING NOT IN EVIDENCE AND IT
4 DOES OR DOES NOT FALL WITHIN THE ATTORNEY-CLIENT PRIVILEGE.
5 SOME PRIVILEGE AGAINST DISCLOSURE IS WHAT YOU NEED, NOT
6 WHETHER IT WAS EVER PUT IN EVIDENCE OR RECEIVED IN EVIDENCE.

7 MR. LIEBERMAN: I UNDERSTAND, YOUR HONOR. JUDGE
8 COLE, WHEN HE ORIGINALLY ISSUED THE TEMPORARY RESTRAINING
9 ORDER, PROTECTED THESE DOCUMENTS ON THE BASIS OF A
10 GENERALIZED PRIVACY CLAIM WHICH WAS THE BASIS FOR THE
11 UNDERLYING LAWSUIT. AT THE CONCLUSION OF THE TRIAL HERE
12 JUDGE BRECKENRIDGE NOT ONLY EXCLUDED THESE FIVE DOCUMENTS
13 FROM EVIDENCE BUT HE ALSO EXPLICITLY MAINTAINED THAT SEAL ON
14 THOSE FIVE DOCUMENTS.

15 THE COURT: WHERE?

16 MR. MOXON: PAGE 2.

17 MR. LIEBERMAN: PAGE 2, FOOTNOTE 1 OF THE MEMORANDUM
18 OF INTENDED DECISION, YOUR HONOR.

19 THE COURT: THIS COPY IS A LITTLE HARD TO READ. I
20 GUESS I CAN READ IT. WHAT IS IT, FOOTNOTE 1?

21 MR. LIEBERMAN: I BELIEVE THAT'S CORRECT, YOUR HONOR.

22 THE COURT: IT RELATES TO THE SECOND PARAGRAPH?

23 MR. LIEBERMAN: AT THE BOTTOM OF THE PAGE. IT'S
24 EXHIBIT A, I BELIEVE. YES, EXHIBIT A OF THE ORIGINAL MOVING
25 PAPERS BY MR. CORYDON.

26 THE COURT: WELL, I HAVE IT. IT'S IN THE FILE, AND
27 I'M LOOKING AT THE ONE IN THE FILE.

28 MR. LIEBERMAN: IT'S ACTUALLY IN THE BODY PLUS IN THE

1 FOOTNOTE, YOUR HONOR. THE FIRST FULL PARAGRAPH ON PAGE 2.

2 THE COURT: JUST ONE MOMENT, PLEASE.

3 MR. LIEBERMAN: I'M SORRY.

4 (PAUSE.)

5 THE COURT: BUT WHAT I INTENDED BY MY OTHER ORDER WAS
6 NOT TO AFFECT ANYTHING THAT WASN'T BROUGHT INTO BEING AT THE
7 TIME OF THIS MEMORANDUM OF INTENDED DECISION, AND OBVIOUSLY
8 JUDGE BRECKENRIDGE INTENDED THAT HIS ORDER SEALING
9 EVERYTHING ELSE WAS OVER AND ABOVE AND IN ADDITION TO THE
10 MATTERS ALREADY SEALED. SO I GUESS I'M GOING TO NOW CLARIFY
11 AND REMOVE THESE, BUT IT'S WITHOUT PREJUDICE TO A SPECIFIC
12 MOTION WITH REGARD TO THESE.

13 MR. MORANTZ: YOUR HONOR, MAY I ADDRESS THE COURT?

14 THE COURT: YES.

15 MR. MORANTZ: BEFORE THE COURT MAKES THAT DECISION, I
16 REALIZE THAT WE HAVE NOT HAD THE BENEFIT OF REVIEWING THE
17 FILE, AS COUNSEL HAS POSSESSION OF THE FILE, SO ALL THAT I
18 HAVE IS WHAT COUNSEL HAVE GIVEN US, THE MOVING PAPERS, AND
19 IN THE MOVING PAPERS BY THE MOVING PARTY -- I'M REFERRING TO
20 THE MOTION FOR RECONSIDERATION BEFORE THE COURT TODAY. AND
21 IT ATTACHES A MINUTE ORDER OF 2-11-85 OF JUDGE BRECKENRIDGE,
22 AND THE UNITED STATES GOVERNMENT MADE THE SAME REQUEST THAT
23 WE'RE MAKING AS TO THE VERY SAME DOCUMENTS THAT COUNSEL
24 SEEKS TO HAVE REMAIN UNDER SEAL. AND UNDER THE -- I THINK
25 IT'S THE THIRD PARAGRAPH THEREOF, IT SAYS SPECIFICALLY THAT
26 THE MOTION IS GRANTED IN FAVOR OF THE UNITED STATES
27 GOVERNMENT TO GET THOSE DOCUMENTS, AS TO THESE VERY
28 EXHIBITS, AND THE COURT WAS MAKING SPECIFIC FINDINGS OF A

1 WAIVER OF A PRIVILEGE, AND IN SOME CASES THAT THE PRIVILEGE
2 DID NOT EVEN APPLY. SO THESE DOCUMENTS HAVE NOW BEEN
3 RELEASED TO THE UNITED STATES GOVERNMENT, AND AS SUCH THEY
4 ARE OUT THERE IN THE PUBLIC DOMAIN, NOT SUBJECT ANYMORE TO
5 ANY --

6 THE COURT: WE CAN ADDRESS THIS RIGHT NOW. I WAS
7 GOING TO PUT IT OVER, BUT I GUESS THE MOTION THAT I RULED ON
8 ON NOVEMBER 9TH WAS BROAD ENOUGH TO COVER THESE FIVE
9 DOCUMENTS ALSO. SO LET'S JUST GO TO THE MERITS OF IT. WHY
10 SHOULDN'T THESE BE UNSEALED?

11 MR. LIEBERMAN: LET ME ADDRESS THAT, YOUR HONOR.
12 CONTRARY TO MR. MORANTZ' REPRESENTATION OF WHAT HAPPENED
13 THERE, YOU'LL NOTE THAT THE MINUTE ORDER SAYS, "SUBJECT TO
14 PROTECTIVE ORDER." NOW, WHAT HAPPENED IN THAT CASE --

15 THE COURT: SEE, EVERYBODY CHARACTERIZES DOCUMENTS,
16 AND THEY DON'T REFER TO THEM, AND I WOULD LIKE TO READ THE
17 ORDER THAT IS BEING REFERRED TO. IS THAT IN THE FILE HERE?

18 MR. LIEBERMAN: THE MINUTE ORDER IS ATTACHED TO --

19 THE COURT: NO. BUT WASN'T THERE A REGULAR ORDER?

20 MR. LIEBERMAN: YES, THERE IS A REGULAR ORDER WHICH I
21 HAVE RIGHT HERE.

22 THE COURT: SHOW IT TO MR. MORANTZ AND THEN HAND IT
23 TO THE CLERK.

24 MR. LIEBERMAN: ALL RIGHT (HANDING). AND I CAN HAND
25 ONE UP TO THE COURT.

26 THE COURT: OKAY. THANK YOU.

27 MR. MORANTZ: YOUR HONOR, WHAT THIS SAYS IS THAT THE
28 UNITED STATES WAS AWARDED THE DOCUMENTS, BUT THEY WERE ONLY

1 ABLE TO USE THEM IN LITIGATION AND NOT TO GIVE THEM TO ANY
2 OTHER THIRD PARTIES WITHOUT COURT APPROVAL. IT'S STILL
3 DISCLOSED.

4 THE COURT: LET ME READ THIS.

5 (PAUSE.)

6 THE COURT: THIS REALLY DOESN'T ASSIST ME IN DECIDING
7 ANY MERIT ON KEEPING THESE SEALED.

8 MR. LIEBERMAN: WELL, YOUR HONOR, LET ME BACK UP A
9 MINUTE. WHAT WE HAVE AS A RESULT OF THIS ORDER IS WE HAVE
10 THE ORIGINAL SEALING ORDER BY JUDGE COLE.

11 THE COURT: LET ME SEE THAT, IF YOU WOULD. I MEAN
12 THE RECORD SHOULD SHOW THAT THIS FILE INVOLVES SOME 28 OR 29
13 VOLUMES, AND SO JUST TO CHARACTERIZE AN ORDER PUTS A
14 TERRIBLE BURDEN ON THE COURT UNLESS YOU GIVE ME A COPY OF
15 IT.

16 MR. LIEBERMAN: I UNDERSTAND THAT, YOUR HONOR.

17 THE COURT: BUT THAT'S WHAT YOU DO IN YOUR PAPERS;
18 YOU JUST SAY WHAT THE ORDERS SAY WITHOUT EVEN GIVING THE
19 DATES OF THEM.

20 MR. MOXON: I'VE GOT IT HERE, YOUR HONOR, IF I MAY
21 BRING THIS UP. I'LL TAKE IT OUT OF THIS BINDER (HANDING).

22 THE COURT: ALL RIGHT. THANK YOU. NOW, THIS ORDER
23 DESCRIBES DOCUMENTS TO BE TURNED OVER TO THE CLERK AND TO
24 REMAIN IN THE POSSESSION OF THE CLERK TO BE VIEWED BY THE
25 ATTORNEYS OF RECORD OF THE PARTIES LIMITED HERETO. AND THE
26 DESCRIPTION OF THE DOCUMENTS -- THEY ARE NOT CONFIDENTIAL
27 DOCUMENTS. I MEAN WHETHER THEY ARE CONFIDENTIAL OR NOT,
28 THEY ARE NOT PRIVILEGED DOCUMENTS. I MEAN THEY ARE

1 LETTERS -- WELL, IT'S DESCRIBED AS, "DOCUMENTS AND MATERIALS
2 PROVIDED TO THEM AT ANY TIME BY DEFENDANT ARMSTRONG
3 PERTAINING TO THE CHURCH OF SCIENTOLOGY AS ABOVE REFERENCED
4 IN THE PRECEDING PARAGRAPH OF THIS ORDER AND SPECIFICALLY
5 INCLUDING," AND THEN IT DESCRIBES LETTERS FROM RON L.
6 HUBBARD AND CORRESPONDENCE BETWEEN HUBBARD AND DON PURCELL
7 AND LETTERS AND OTHER DOCUMENTS CONCERNING THE HUBBARD
8 EXPLORATION COMPANY AND OTHERS, BUT THERE'S NOTHING ABOUT
9 THIS ORDER THAT WOULD ALLOW ME AT LEAST TO CONCLUDE THAT
10 THEY SHOULD REMAIN SEALED AT THIS TIME.

11 MR. LIEBERMAN: WELL, LET ME TRY AND EXPLAIN WHY I
12 THINK YOUR HONOR SHOULD DO THAT. THE BASIS OF THIS LAWSUIT
13 BY BOTH THE CHURCH AND BY MRS. HUBBARD WAS TO PROTECT
14 PRIVATE INTERESTS IN THESE DOCUMENTS. THESE WERE PRIVATE
15 DOCUMENTS THAT INCLUDED LETTERS, DIARIES, ET CETERA.

16 THE COURT: PRIVACY GIVES WAY TO DISCOVERY IN
17 LITIGATION.

18 MR. LIEBERMAN: I AGREE WITH YOU, YOUR HONOR.
19 HOWEVER, THERE WAS ALSO A PRELIMINARY INJUNCTION ISSUED
20 SUBSEQUENT --

21 THE COURT: THAT'S NOT AN ABSOLUTE STATEMENT, BUT IT
22 GIVES WAY EXCEPT IN UNUSUAL CIRCUMSTANCES.

23 MR. LIEBERMAN: WELL, BUT IT GIVES WAY, YOUR HONOR,
24 WHEN IT IS RELEVANT TO OUTSTANDING LITIGATION.

25 THE COURT: NO. IT'S EVEN BROADER THAN "RELEVANT."
26 IT'S "RELEVANT" OR "MIGHT LEAD TO RELEVANCE."

27 MR. LIEBERMAN: THAT'S RIGHT. THAT'S RIGHT. NOW,
28 WHAT JUDGE BRECKENRIDGE DID HERE WAS THAT HE SEALED THESE

1 DOCUMENTS ON THE BASIS OF PRIVACY AND ALLOWED PARTIES TO
2 COME IN AND MAKE A SHOWING THAT THEY ARE RELEVANT TO
3 OUTSTANDING LITIGATION. WHAT THE UNITED STATES DID IN THIS
4 MINUTE ORDER OF FEBRUARY 25TH IS IT CAME IN AND IT ASKED FOR
5 ABOUT 15 DOCUMENTS, AS YOU SEE FROM THE ORDER. HE DENIED
6 MOST OF THEM ON THE BASIS OF EITHER PRIVILEGE OR RELEVANCE
7 AND GRANTED FIVE OF THEM PURSUANT TO A PROTECTIVE ORDER.
8 THE REASON THE PROTECTIVE ORDER WAS GRANTED WAS PRECISELY
9 BECAUSE THESE DOCUMENTS CONSTITUTED THE SUBJECT MATTER OF
10 THE LITIGATION AND HAD BEEN FOUND BY JUDGE BRECKENRIDGE TO
11 BE PRIVATE AND ENTITLED TO PROTECTION EXCEPT WHERE A
12 COMPELLING --

13 THE COURT: I DON'T SEE THAT KIND OF A FINDING BY
14 JUDGE BRECKENRIDGE. I DON'T SEE ANYTHING LIKE THAT. AND I
15 WONDER WHAT THE BASIS WOULD BE FOR IT. BASED ON THE HISTORY
16 OF THIS FILE, I DON'T SEE A BASIS FOR DETERMINING THAT THE
17 DOCUMENTS PRODUCED PURSUANT TO JUDGE COLE'S ORDER ARE ANY
18 DIFFERENT THAN ANY OTHER LITIGANT'S DOCUMENTS THAT THEY HAVE
19 IN THEIR POSSESSION AND THAT WOULD HAVE TO BE PRODUCED IF
20 THEY WERE INVOLVED IN A LAWSUIT IF THEY WERE EITHER RELEVANT
21 OR POSSIBLY RELEVANT TO THE ISSUES IN A CASE.

22 MR. LIEBERMAN: YES. BUT SOMEBODY WOULD HAVE TO MAKE
23 A REQUEST FOR DISCOVERY. WE WOULD HAVE THE RIGHT TO OPPOSE
24 IT ON THE BASIS OF IRRELEVANCE AND PRIVACY. THEY WOULD HAVE
25 TO MAKE A DEMONSTRATION.

26 THE COURT: BUT YOU'RE NOT SAYING THESE ARE
27 IRRELEVANT.

28 MR. LIEBERMAN: THEY HAVE NOT SHOWN ANY RELEVANCE,

1 YOUR HONOR. THEIR MOVING PAPERS -- LET ME MAKE THIS POINT,
2 THEIR MOVING PAPERS SAID THEY WANT THE RECORD OF THE TRIAL
3 IN THIS CASE AND THE EXHIBITS. THESE DOCUMENTS ARE NOT PART
4 OF THE RECORD OF THE TRIAL IN THIS CASE OR THE EXHIBITS.
5 THEY SAID THEY NEED THOSE BECAUSE THEY NEED TO DETERMINE
6 WHAT WAS DECIDED BY JUDGE BRECKENRIDGE.

7 THE COURT: REALISTICALLY, HOW ARE THEY GOING TO
8 DETERMINE WHETHER THEY ARE RELEVANT UNLESS THEY ARE
9 UNSEALED?

10 MR. LIEBERMAN: WELL, YOUR HONOR, PARTIES ARE NOT
11 ALLOWED TO RUMMAGE THROUGH SOMEBODY'S STACK OF DOCUMENTS AND
12 SAY, "WE WANT TO SEE IF THERE'S ANYTHING RELEVANT THERE."

13 THE COURT: YOU'RE RIGHT. SO I THINK THE WAY TO DO
14 THIS IS I'M GOING TO EXCLUDE THESE DOCUMENTS WITHOUT
15 PREJUDICE THAT TO THE EXTENT THAT ANY OF YOUR PROPER
16 DISCOVERY REQUESTS CALL FOR THE PRODUCTION OF THESE
17 DOCUMENTS THAT THE CHURCH WILL BE REQUIRED TO SO INDICATE,
18 IN WHICH CASE YOU CAN MAKE A MOTION TO HAVE IT UNSEALED.
19 BECAUSE THEY WOULD THEN BE SAYING EXCEPT FOR THE SEALING
20 HERE, WE WOULD BE DISCLOSING THESE DOCUMENTS. BECAUSE I
21 THINK COUNSEL'S RIGHT HERE.

22 MR. MORANTZ: MAY I ADDRESS THE COURT ON THAT?

23 THE COURT: ALL RIGHT.

24 MR. MORANTZ: THE PROBLEM WITH THAT IS THAT WE'RE
25 LEFT TO --

26 THE COURT: LET ME POINT OUT I REALIZE THAT IN THIS
27 CASE THEY BETTER BE CAREFUL, BECAUSE ULTIMATELY YOU MAY MAKE
28 A MOTION AND THERE MAY BE A SECOND-GUESSING BY THIS COURT AS

1 TO WHETHER OR NOT THEY HAVE BEEN CANDID WITH YOU IN THEIR
2 RESPONSES TO YOUR DISCOVERY REQUESTS.

3 MR. MORANTZ: YOUR HONOR, I WANT TO HAVE -- IF I MAY
4 APPROACH -- THE OPPORTUNITY TO EXPLAIN TO THE COURT WHY I
5 BELIEVE THE COURT SHOULD NOT MAKE THE ORDER THAT IT IS NOW
6 SUGGESTING, IF I MAY.

7 THE COURT: ALL RIGHT.

8 MR. MORANTZ: TO COMMENCE WITH, WE HAVE ATTACHED THE
9 DECLARATION OF A FORMER TOP SCIENTOLOGY OFFICIAL, VICKI
10 ASNARAN, INDICATING THAT DURING THE ACTUAL TRIAL OF THIS
11 CASE THE DISCOVERY REQUEST OF SCIENTOLOGY WAS DISOBEYED --
12 THAT SCIENTOLOGY WOULD DESTROY DOCUMENTS THAT WERE ORDERED
13 PRODUCED BY JUDGE BRECKENRIDGE RATHER THAN PRODUCING THEM.
14 HER DECLARATION IS PART OF THE ORIGINAL MOVING PAPERS TO BE
15 FILED WITH THIS COURT. SECOND, THE DOCUMENTS THEMSELVES
16 WERE NOT ONLY NOT SUBJECT TO ANY PRIVILEGE BUT WERE GIVEN TO
17 MR. ARMSTRONG FOR PURPOSES OF WRITING A BOOK. THEY WERE
18 GIVEN AWAY. SO IT WASN'T SOMETHING AS COUNSEL HAS --

19 THE COURT: I'M AGREEING WITH YOU. I DO NOT SEE THE
20 BASIS FOR A PRIVILEGE, BUT THE BURDEN IS ON YOU TO SHOW THAT
21 THESE FALL WITHIN SOME LEGITIMATE DISCOVERY REQUEST OF
22 YOURS. AND IF YOU DO THAT, IN OTHER WORDS, IF YOU MAKE A
23 REQUEST TO WHICH THESE DOCUMENTS ARE RESPONSIVE, THEN THEY
24 WILL IDENTIFY THOSE DOCUMENTS. AND ULTIMATELY IF YOU
25 BELIEVE THEY ARE NOT BEING CANDID ABOUT IT, YOU CAN FILE A
26 MOTION AND SAY, "HERE'S OUR REQUEST. THEY SAID NONE OF
27 THESE DOCUMENTS ARE RELEVANT." AND THEN I'LL REVIEW IT AND
28 FIND OUT. BECAUSE THAT'S WHAT WOULD HAPPEN IF THIS HAD

1 NEVER BEEN SEALED. IF THESE DOCUMENTS HAD NEVER BEEN SEALED
2 HERE, THEN YOU WOULD BE SUBJECT TO THE DEFENDANTS'
3 CANDIDNESS IN MAKING RESPONSES.

4 MR. MORANTZ: IT'S NOT QUITE CORRECT, YOUR HONOR.
5 WHAT HAS HAPPENED WAS THAT BUT FOR THE SETTLEMENT THAT WAS
6 PLACED ON THIS CASE, ARMSTRONG WOULD HAVE THE DOCUMENTS
7 INDEPENDENT -- WHAT THEY DID IS IN THE SETTLEMENT -- PART OF
8 THE SETTLEMENT THEY MADE WAS THAT MR. ARMSTRONG HAS
9 CONTRACTED AWAY -- HE WILL NOT TALK TO US. THAT WAS PART OF
10 THE CONTRACT SCIENTOLOGY PLACED ON MR. ARMSTRONG. THAT'S A
11 MATTER THAT WE'LL BE DEALING WITH IN THE OTHER LITIGATION.
12 BUT THE FACT REMAINS THAT WE CAN'T MAKE A REQUEST AND ARGUE
13 WITHOUT SEEING THE DOCUMENTS. WHAT I WOULD SUGGEST AS A
14 BETTER ALTERNATIVE TO THE COURT IS THAT WE BE ABLE TO VIEW
15 THE DOCUMENTS BUT NOT COPY THE SAME, THAT WE WOULD THEN MAKE
16 MOTIONS TO THE COURT IN WHICH THE ACTION IS PENDING FOR THE
17 COURT TO DETERMINE IF THOSE DOCUMENTS ARE RELEVANT, AND THEN
18 IF WE BRING BACK AN ORDER --

19 THE COURT: I'M NOT GOING TO DO IT THAT WAY. HERE'S
20 THE ORDER: THE COURT'S ORDER OF NOVEMBER 9TH, 1988 IS
21 CLARIFIED AS FOLLOWS: IT DOES NOT RELATE TO NOR REQUIRE THE
22 UNSEALING OF EXHIBIT 500-CCCC, OR 500-5 C'S, THE TWO TAPES,
23 AUDIO TAPES, NOR TO EXHIBITS -- THE COPY IS SO BAD HERE I'M
24 LOOKING AT THE -- I GUESS YOU PUT THEM IN YOUR MOVING
25 PAPERS. HERE IT IS. -- NOR TO DOCUMENTS EXHIBITS 500-5K,
26 500-5L, 500-5O, 500-5P, AND 500-6O. WITH REGARD TO THE LAST
27 FIVE DESIGNATED DOCUMENTS, THIS ORDER IS WITHOUT PREJUDICE
28 TO A FURTHER MOTION SPECIFICALLY DIRECTED TO THESE DOCUMENTS

1 IN CONNECTION WITH DISCOVERY IN THE OTHER CASE.

2 MR. MORANTZ: YOUR HONOR, IF I MAY, THERE'S ANOTHER
3 PROBLEM I WISH TO ADDRESS THE COURT ON, IF I MAY. IF THE
4 COURT MAKES AN ORDER AS SUCH, IT WOULD -- IN MY CASES WITH
5 MR. CORYDON IT WOULD BE A FUTILE EFFORT. I COULD NOT SEND
6 SUCH A DISCOVERY REQUEST. THE PLAINTIFFS ARE
7 SCIENTOLOGISTS, NOT THE CHURCH OF SCIENTOLOGY. SO I COULD
8 NOT ADDRESS -- THEY WOULD BE ABLE TO ANSWER THAT SUCH
9 DOCUMENTS -- THE CHURCH OF SCIENTOLOGY MIGHT SAY --

10 THE COURT: THAT'S NOT CORRECT. YOU CAN DO DISCOVERY
11 FROM A NONPARTY.

12 MR. MORANTZ: YOU MEAN SERVE A SUBPOENA ON THE CHURCH
13 OF SCIENTOLOGY THAT SAID THESE DOCUMENTS IN THIS COURT
14 FILE -- THEY WOULDN'T BE OBLIGATED TO PRODUCE THEM. I
15 COULDN'T SERVE A SET OF INTERROGATORIES ASKING THEM TO
16 IDENTIFY SUCH DOCUMENTS, AND I COULDN'T SERVE ANYTHING ON
17 THEM TO PRODUCE THEM.

18 THE COURT: YOU CAN DO A DEPOSITION, WRITTEN
19 DEPOSITION QUESTIONS TO A NONPARTY.

20 MR. MORANTZ: HOW WOULD I DESIGNATE WHICH PARTY WOULD
21 HAVE KNOWLEDGE OF WHAT THE CONTENTS ARE OF THESE PARTICULAR
22 DOCUMENTS?

23 THE COURT: YOU'RE NOT UNDERSTANDING. I'M NOT
24 SUGGESTING THAT YOU CAN ASK THEM WHAT IS IN THOSE DOCUMENTS.
25 THAT'S NOT NECESSARILY RELEVANT. THAT DOESN'T SHOW
26 RELEVANCE TO YOUR OTHER CASE. YOU CAN GIVE THEM DISCOVERY
27 ON THE SUBJECTS OF YOUR LAWSUIT. AND I'M SAYING RIGHT NOW
28 THAT THEY ARE REQUIRED IN ANSWERING ALL OF YOUR DISCOVERY TO

1 INDICATE WHETHER OR NOT ANY OF THESE FIVE DOCUMENTS ARE
2 RESPONSIVE TO YOUR DISCOVERY REQUEST. AND IF THEY SO
3 INDICATE THAT THESE DOCUMENTS OR ONE OR TWO OF THEM OR
4 WHATEVER ARE RESPONSIVE, THEN YOU WILL BE ABLE TO MAKE A
5 DISCRETE MOTION WITH REGARD TO THOSE DOCUMENTS. IF THEY
6 INDICATE THAT, NO, NONE OF THESE DOCUMENTS ARE RESPONSIVE TO
7 ANY OF YOUR DISCOVERY, THEN YOU MAY MAKE A MOTION, IF YOU
8 ARE SO INCLINED, TO HAVE THE COURT REVIEW THOSE DOCUMENTS TO
9 DETERMINE WHETHER OR NOT THEY HAVE TRUTHFULLY RESPONDED TO
10 YOUR DISCOVERY.

11 MR. MORANTZ: WHAT I WOULD ASK IS IF I COULD MAKE AN
12 OFFER OF PROOF AS TO THE RELEVANCE OF THE WRITTEN
13 DOCUMENTS --

14 THE COURT: WE'RE ALL THROUGH WITH THE HEARING,
15 COUNSEL. THAT'S THE PROCEDURE WE'RE GOING TO DO.

16 MS. PLEVIN: THERE IS ANOTHER ADDITIONAL ISSUE I
17 THINK WOULD BE USEFUL TO CLARIFY AT THIS POINT, AND THAT IS
18 THE PROCEDURE FOR UNSEALING THE FILES. WE'VE GOT A
19 SITUATION WHERE THERE ARE CERTAIN DOCUMENTS WHICH YOU'VE
20 INDICATED WHICH WILL NOT BE UNSEALED AT THE TIME. WE ALSO
21 HAVE A BACKGROUND HERE WHICH IS REFLECTED IN MS. ASNARAN'S
22 DECLARATION OF IMPROPER DEALING WITH DOCUMENTARY EVIDENCE BY
23 THE CHURCH OF SCIENTOLOGY.

24 THE COURT: WHAT DO YOU PROPOSE?

25 MS. PLEVIN: I PROPOSE THAT THE FILE BE UNSEALED IN
26 CHAMBERS UNDER YOUR SUPERVISION WITH A --

27 THE COURT: I DON'T HAVE TIME TO DO THAT. I'M SORRY.
28 I'M NOT GOING TO BE A POLICE OFFICER HERE.

1 MS. PLEVIN: I'M LOOKING FOR SOME WAY TO FIND A
2 PROCEDURE BY WHICH MR. MORANTZ AND MYSELF CAN VIEW THE FILE
3 EXCEPT FOR THE DOCUMENTS WHICH YOU CHOOSE --

4 THE COURT: WHAT YOU ARE SAYING IS YOU WANT IT
5 TOTALLY UNSEALED JUST FOR YOU.

6 MS. PLEVIN: NOT TRUE. I'M SAYING WE WOULD LIKE TO
7 HAVE ACCESS TO THEM BEFORE THEY ARE OPENED DOWN AT THE
8 CLERK'S WINDOW WHERE PEOPLE CAN GET ACCESS TO THEM AND PULL
9 THINGS OUT AND, UNFORTUNATELY, WE ARE CONCERNED, DESTROY
10 THEM.

11 THE COURT: ISN'T THERE A WAY THAT A CLERK CAN BE
12 ASSIGNED TO OVERSEE THE INSPECTION OF THE FILE?

13 MR. MOXON: I BELIEVE THIS MAY ALL BE MOOT NOW SINCE
14 THERE IS AN APPEAL IN THIS MATTER. IF THE COURT OF APPEALS
15 AFFIRMS HIS HONOR'S DECISION, THEN WE CAN COME BACK AND WORK
16 OUT A PROCEDURE.

17 THE COURT: I DON'T WANT YOU BACK. I DON'T HAVE TIME
18 TO HAVE YOU BACK ON THIS.

19 MR. MORANTZ: WE'RE ASSUMING -- IF THEY DON'T HAVE A
20 STAY -- I THINK IT COULD BE CONTINUED TO DECEMBER 27.
21 ASSUMING THAT NO STAY IS ISSUED BY THE APPELLATE COURT --

22 MS. PLEVIN: THEY HAVE NOT CHALLENGED THE GENERAL
23 UNSEALING ORDER, SO I DO NOT THINK THEY HAVE GROUNDS --

24 MR. MOXON: THAT'S NOT CORRECT.

25 MR. LIEBERMAN: OF COURSE WE'RE TAKING AN APPEAL ON
26 THAT.

27 THE COURT: IF IT ISN'T, THEN, OBVIOUSLY, IT'S OFF,
28 BUT I THINK WHAT I'M GOING TO DO IS ASK YOU TO SUBMIT AN

1 ORDER IMPLEMENTING MY NOVEMBER 9TH ORDER AND SET FORTH THE
2 PROCEDURE WHICH WOULD CALL FOR THE FILE TO BE UNSEALED BUT
3 SEQUESTERED SO THAT ANY TIME THE FILE IS BEING INSPECTED
4 THERE WILL BE A MEMBER OF THE CLERK'S OFFICE IN ATTENDANCE
5 WITH WHOEVER IS INSPECTING IT.

6 MS. PLEVIN: THAT SOUNDS FINE.

7 THE COURT: YOU CAN SUBMIT THE ORDER AND WORK THAT
8 OUT IN AN AGREEABLE WAY. OTHERWISE, YOU EACH SUBMIT YOUR
9 OWN IDEAS.

10 MR. MOXON: YOUR HONOR, IF THEY COULD SUBMIT THE
11 ORDER TO US, BEFORE IT COMES IN, FOR OUR APPROVAL.

12 THE COURT: YES.

13 (PROCEEDINGS CONCLUDED.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56

HON. BRUCE R. GEERNAERT, JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

PLAINTIFF,

VS.

GERALD ARMSTRONG,

DEFENDANT.

NO. C 420 153

REPORTER'S
CERTIFICATE

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

I, MICHAEL W. PETTIT, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF
LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES,
1 THROUGH 15, COMPRISE A FULL, TRUE AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE MATTER AS
REPORTED BY ME ON NOVEMBER 30, 1988.

DATED THIS 2ND DAY OF DECEMBER, 1988.


MICHAEL W. PETTIT, CSR #2053